

AMENDMENTS TO THE DRAWINGS

Please amend the drawings. Replacement sheets are attached.

Attachment: Replacement Sheets

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed on March 23, 2005. In the Office Action, the Examiner notes that claims 1-21 are pending and rejected.

By this response, Applicants have amended claims 1, 11, 19 and 20. Replacement drawings for figures 2A, 2B and 2C are enclosed.

In view of both the amendments presented above and the following remarks, Applicants submit that the claims now pending in the application are not anticipated and non-obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicants believe that all the claims are allowable.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

OBJECTIONS

The Drawings

The Examiner has objected to the drawings for failing to comply with 37 C.F.R. 1.84(p)(5) because they do not include various reference signs mentioned in the description. Corrected drawings in compliance with 37 C.F.R. 1.121(d) are submitted herewith. The reference signs mentioned in the description now match the reference signs of the drawings. Applicants respectfully request that the Examiner's objection be withdrawn.

The Specification

The Examiner has objected to the specification because of various informalities. Applicants have corrected the specification so the reference signs in the description correspond to the labels in the drawings. Therefore, Applicants respectfully request that the Examiner's objection be withdrawn.

The Claims

The Examiner has objected to claim 11 because in line 2 the word "stored" should be --store--. Applicants have amended claim 11 as suggested by the Examiner. Therefore, Applicants respectfully request that the Examiner's objection be withdrawn.

REJECTIONS

REJECTION UNDER 35 U.S.C. §102

Claims 1-5, 7-9 and 14-21

The Examiner has rejected claims 1-5, 7-9 and 14-21 under 35 U.S.C. §102(e) as being anticipated by Pandya et al. (USPN 6,671,724, hereinafter "Pandya").

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Pandya reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Applicants' independent claims 1, 19 and 20 recite:

1. A method for monitoring, from a remote location, operation of a head-end in an information distribution system, the method comprising:
at the remote location, receiving status from the head-end relating to one or more operations performed at the head-end; and
forwarding at least a subset of the received status from the remote location to one or more remote devices.

19. A method for monitoring, from a remote location, operation of a head-end in an information distribution system, the method comprising:
at the remote location, receiving information from the head-end relating to one or more operations performed at the head-end, wherein the received information includes status and indications of possible error conditions relating to the one or more operations performed at the head-end;
receiving, at the remote location, identities of one or more remote devices designated to receive the information relating to the one or more operations performed at the head-end; and
forwarding at least a subset of the received information from the remote location to the one or more remote devices.

20. A method for remotely monitoring and controlling operation of a head-end in an information distribution system, comprising:

- providing, from a remote location to one or more remote devices, status from the head-end relating to one or more operations performed at the head-end;
- receiving, at the remote location, from a particular remote device one or more response messages; and
- adjusting at least one parameter of a particular operation performed at the head-end in accordance with the one or more response messages.

Pandya discloses a method for monitoring, from a remote location, network resources in a distributed networking environment. More specifically, Pandya discloses on column 4, lines 30-45:

The invention includes two main software components, an agent and a control module, also referred to as a control point. The agents and control points are deployed throughout distributed network 10, and interact with each other to accomplish the above goals. A plurality of agents may be deployed to intelligently couple clients, servers and other computing devices to the underlying network. The deployed agents monitor, analyze and act upon network events relating to the networked devices with which they are associated. The agents are centrally coordinated and/or controlled by one or more control points. The agents and control points interact to control and monitor network events, track operational and congestion status of network resources, select optimum targets for network requests, dynamically manage bandwidth usage, and share information about network conditions with customers, users and IT personnel.

Pandya discloses using two software components: an agent and a control point. Pandya's invention includes a plurality of agents coupled to devices on the underlying network. Agents and control points interact with each other, monitor the network, and share the information with customers, users and IT personnel.

In contrast, Applicants invention and claims 1, 19 and 20 include at least three distinct components: a monitor and control unit, a head-end, and a remote device. The head-end delivers to the monitor and control unit its status relating to operations performed at the head-end. The monitor and control unit then forwards at least part of that status to a remote device at a third location. This is especially important because systems have to be up, running at all times, and required personnel might not be

available on-site. (See page 24, lines 18-22). The remote device allows the personnel to render assistance by responding to the forwarded messages. The response effects the operations at the head-end to ensure the head-end is operating properly.

Pandya fails to disclose a head-end, a monitor and control unit and a remote device. Pandya also does not forward any information to any remote devices. Pandya discloses that the agents are deployed to the network devices and are controlled by the control points. Together those two components provide the monitoring function to ensure the network is functioning properly. The agents monitors at the devices they are associated, and communicates information to the control point. In response, the control points alter the behavior of certain agents in order to provide desired network services (See column 7, lines 28-39). Pandya does not disclose any resource information being transmitted to a remote device as claimed. Moreover, Pandya is silent on the remote device participating in adjusting at least one parameter of a particular operation performed at the head-end.

In light of the remarks above, Applicants submit that Pandya does not anticipate independent claims 1, 19 and 20. It is believed that independent claims 1, 19 and 20 are allowable under 35 U.S.C. §102. Furthermore, dependent claims 2-5, 7-9, 14-18 and 21 depend directly or indirectly from independent claims 1, 19 and 20 and recite additional limitations thereof. As such and for at least the same reasons discussed above with respect to independent claims 1, 19 and 20, Applicants submit that these dependent claims are also not anticipated by Pandya and are allowable under 35 U.S.C. §102. Therefore, Applicants respectfully request that the rejection be withdrawn.

REJECTION UNDER 35 U.S.C. §103

Claims 6 and 10-13

The Examiner has rejected Claims 6 and 10-13 under 35 U.S.C. §103(a) as being unpatentable over Pandya. The Applicants respectfully transverse the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to

focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Pandya reference fails to teach Applicants' invention as a whole.

As discussed above Pandya discloses that agents and control points provide the monitoring function to ensure the network is functioning properly. The agents monitor the devices they are associated, and communicates information to the control point. In response, the control points alter the behavior of certain agents in order to provide desired network services (See column 7, lines 28-39).

By contrast, the Applicants show at least three distinct components: a monitor and control unit, a head-end, and a remote device. The head-end delivers to the monitor and control unit its status relating to operations at the head-end. The monitor and control unit then forwards at least part of that status to a remote device at a third location. This is especially important because systems have to be up, running at all times, and required personnel might not be available on-site. (See page 24, lines 18-22).

Since the Pandya reference fails to teach or suggest the remote device and the claimed function of providing, from a monitor and control unit to one or more remote devices, status relating to one or more operations performed at the head-end, the Pandya reference fails to teach or suggest the Applicants' invention as a whole.

As such, the Applicants submit that independent claims 1, 19 and 20 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 6 and 10-13 depend directly or indirectly from independent claim 1 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, the Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the Examiner's rejection be withdrawn.

OFFICIAL NOTICES

The Office Action takes Official Notice, regarding "indicating capabilities for each remote device" (page 10, 3/23/05 Office Action) and "monitoring the status of encoding operations, monitoring the status for one or more buffers used to store encoded data, monitoring the status of relating to multiplexing operations performed, and monitoring status relating to a particular transport stream transmitted from the head-end" (page 11, 3/23/05 Office action) as being well known in the art. Applicant hereby traverses the Official Notice. The referenced limitations may not be well known within the art of monitoring head-ends, and as such may properly be patentable subject matter of the Applicants' present invention.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this office action.

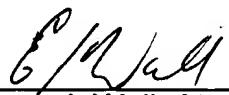
CONCLUSION

Applicant submits that claims 1-21 are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 6/14/05



Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Moser, Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702